



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2018

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C(MD)No.554 of 2018

Senthil : Petitioner/Petitioner/Appellant

Vs.

Manimegalai : Respondent/Respondent/Respondent

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the entire records pertaining to the order passed by Principal District and Sessions Judge, Trichy District, Trichy in Crl.M.P.No.2275 of 2018 in C.A.No.(Sr.No.6599/2018) of 2018 vide its order dated 07.08.2018 and set aside the same and consequently direct the Principal District and Sessions Judge to consider and pass order on merits in Crl.M.P.No.2275 of 2018 after hearing the both sides.

For Petitioner : Mr.M.Pitchai Muthu

ORDER

The revision petitioner has preferred a private complaint for the offence under Section 138 of the Negotiable Instruments Act against the respondent, pertaining to the issuance of a cheque for a sum of Rs.4,50,000/- (Rupees Four lakhs Fifty thousand only) issued by the respondent, which was returned back for want of sufficient fund. The trial Court, after considering the complaint and the evidence of defence, has dismissed the complaint on 28.12.2018.

2.Aggravated by that, an appeal against the acquittal of the respondent has been preferred by the revision petitioner with a delay of 20 days. The application which was filed under Section 5 of the Limitation Act was taken on file by the appellate Court, after notice issued to the respondent and a counter affidavit has been filed by the respondent on 31.07.2018. The matter has been posted for enquiry and disposal on 07.08.2018. On that day, since there was no representation on behalf of the appellant/complainant who is also the petitioner in the application under Section 5 of the limitation Act, the application was dismissed.



3.A perusal of the impugned order indicates that the application has been dismissed for default for non-appearance and not on merits. However the learned Judge has stated that perused the entire materials before dismissing the application. Since the operative portion of the order does not reflect any perusal of the material records as stated in preamble order, this order is liable to be set aside.

4.In the result, this Criminal Revision Case is allowed and the order of the learned Principal District and Sessions Judge, Tiruchirappalli in CrI.M.P.No.2275 of 2018 dated 07.08.2018 is hereby set aside. The revision petitioner herein is directed to be present personally or through his counsel on the next date of hearing and submit his arguments, failing which the appellate Court is at liberty to peruse the records and pass orders on merits and in accordance with law.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Principal District and Sessions Judge,
Trichy, Trichy District.

Copy To:-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.M.PITCHAIMUTHU, ADVOCATE IN SR No. 87757

CP

TE/PM/SAR-3 : 27/10/2018 : 2P/5C

ORDER MADE IN
CrI.R.C (MD) No.554 of 2018
27.09.2018